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7
8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. 2009-117

11 TINA LIM CAPE, A.K.A. TINA PHUNG
12 433 Westmoor Avenue
Daly City, CA 94015
13 Registered Nurse License No. 692346

A C C U S A T I O N

14 Respondent.

15
16 Complainant alleges:

17 PARTIES

18 1. Ruth Ann Terry, M.P.H., R.N. (Complainant) brings this Accusation
19 solely in her official capacity as the Executive Officer of the Board of Registered Nursing,
20 Department of Consumer Affairs.

21 2. On or about November 13, 2006, the Board of Registered Nursing issued
22 Registered Nurse License Number 692346 to Tina Lim Cape, a.k.a. Tina Phung (Respondent).
23 The Registered Nurse License was in full force and effect at all times relevant to the charges
24 brought herein and will expire on February 28, 2010, unless renewed.

25 JURISDICTION

26 3. This Accusation is brought before the Board of Registered Nursing
27 (Board), Department of Consumer Affairs, under the authority of the following laws. All section
28 references are to the Business and Professions Code unless otherwise indicated.

1 FIRST CAUSE FOR DISCIPLINE

2 (Use of Controlled Substance/Impaired)

3 4. Respondent is subject to disciplinary action under section 2762(b), in that
4 on or about January 31, 2006, Respondent was found to be driving while under the influence of
5 prescribed medication when she was involved in a single vehicle collision and was arrested by
6 officers of the Daly City Police Department. Respondent admitted to the arresting officer that
7 she had taken prescribed medications for sleep and for muscle spasms and that she should not be
8 driving having taken these medications. Respondent was unable to pass field sobriety tests at the
9 time of her arrest.

10 SECOND CAUSE FOR DISCIPLINE

11 (Conviction of Crime)

12 5. Respondent is subject to disciplinary action under section 2762(c), in that
13 on or about November 19, 2007, Respondent was convicted by her plea of nolo contendere to a
14 violation of Vehicle Code Section 23152(A), driving while under the influence of an alcoholic
15 beverage, or a drug, a misdemeanor, with a prior conviction for a violation of Vehicle Code
16 section 23152(B), in San Mateo County Superior Court Case NM360713A. The circumstances
17 of the conviction are set forth above in paragraph 4.

18 DISCIPLINE CONSIDERATIONS

19 6. To determine the degree of discipline, if any, to be imposed on
20 Respondent, Complainant alleges that on or about July 3, 2002, in a prior criminal proceeding
21 against Tina Phung, Defendant, in Marin Superior Court, Case Docket No. C124715,
22 Respondent was convicted of violating Vehicle Code Section 23152(B), a misdemeanor. The
23 record of the criminal proceeding is incorporated in Respondent's admission to the conviction,
24 with a prior conviction, in San Mateo County Case No. NM360713A, set forth above in
25 paragraph 5.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein
3 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

4 1. Revoking or suspending Registered Nurse License Number 692346, issued
5 to Tina Lim Cape, a.k.a. Tina Phung.

6 2. Ordering Tina Lim Cape, a.k.a. Tina Phung to pay the Board of Registered
7 Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to
8 Business and Professions Code section 125.3;

9 3. Taking such other and further action as deemed necessary and proper.

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11 DATED: 11/24/08

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13
14 Ruth Ann Terry
15 RUTH ANN TERRY, M.P.H., R.N.
16 Executive Officer
17 Board of Registered Nursing
18 Department of Consumer Affairs
19 State of California
20 Complainant

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